

REMARKS

Favorable reconsideration of this application is respectfully requested in view of amendments above and the following remarks.

Status of Claims

Claims 32-48 are currently pending in the application of which claims 32, 35, 40, 43, and 46 are independent.

Summary of the Office Action

Claim 48 was objected to as being dependent upon a rejected base claim but including allowable subject matter.

Claims 32, 34, 40, 43, and 46 were objected to for minor informalities.

Claims 32-33, 35-36, 38, 39, 40-41, 43-44, and 46-47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barnard et al (US Pub. No. 2003/0005100) (hereinafter “Barnard”), in view of Sistanizadeh et al. (USPN 5,790,548) (hereinafter referred to as Sistanizadeh), in further view of the applicant’s admitted prior art (hereinafter “AAPA”) with the citations referring to the applicant’s specification.

Claims 34, 37, 43, and 45 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barnard in view of Sistanizadeh in further view of AAPA, in further view of Official Notice.

The aforementioned rejections are respectfully traversed for at least the reasons set forth below.

Claim Objections

Claims 32, 34, 40, 43, and 46 were objected to for minor informalities. Claims 32, 35, 40, 43, and 46 are amended to overcome the objection. Note that claim 34 was objected to, but Applicants' believe independent claim 35 rather than dependent claim 34 was meant to be included in the objection. Claim 35 is amended to overcome the objection.

Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007):

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, “[a]ll claim limitations must be considered” because “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 32-33, 35-36, 38, 39, 40-41, 43-44, and 46-47

Claims 32-33, 35-36, 38, 39, 40-41, 43-44, and 46-47 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barnard in view of Sistanizadeh in further view of AAPA.

Claim 32 recites, “...the initial access request including the assigned address of the particular node....” Claim 32 also recites, “wherein the assigned address is assigned when the particular node is connected to the network.” The Examiner alleges that Barnard, paragraph [0074], teaches this feature. This Examiner states this section describes a DHCP discover request which includes a MAC address. The Examiner contends that the “DHCP

discover request” of Barnard is the “initial request.” The Examiner also alleges that the “MAC address” is the “assigned address.” However, the MAC address is not an assigned address assigned when the particular node is connected to the network. A MAC address is a permanent unique identifier of a network card given at the time of manufacture of the network card, and it is not later assignable. A subsequent sentence from the same paragraph makes clear that an assigned address is different than a MAC address stating, “[t]he MAC address and the assigned IP address are provided to” Indeed, Barnard does disclose an assigned address in addition to the MAC address; however, Barnard does not disclose an initial access request including an assigned address. Barnard only discloses an initial access request including a MAC address.

Claim 32 recites, “the discovery procedure for the particular node including polling other nodes in the network to determine a network topology, the polled network topology including at least some of the other nodes to which the particular node is connected, and the configuration of the particular node.” Claim 32 also describes that the discovery procedure is initiated in response to the initial request from the node establishing a connection to the network. Barnard and Sistanizadeh fail to teach or suggest these features.

The Examiner initially alleges that paragraph [0077], lines 12-27 discloses polling of nodes one at a time. However, paragraph [0077], lines 12-27 does not disclose polling network topology, but rather, only discloses sending an SNMP information request message over network 10 to the printing device.

The Examiner also then relies on AAPA described in the background of the Applicants' specification to teach this claimed feature. The background of the Applicants' specification discloses scheduled polling of the network that is typically performed at night

when the network load is low. The background in paragraph 6 then describes the disadvantages of the scheduled polling. Paragraph 6 states,

A disadvantage of scheduled discovery which is performed by the NNM product is that the discovery procedure can negatively affect network performance when the discovery procedure is carried out. This is why the discovery schedule is typically set such that the discovery procedure is carried out when the network load is low, i.e., during the night. However, performing the discovery at predetermined time intervals has the disadvantage that network nodes which are connected to the network only temporarily can be missed by the discovery. In particular this applies to portable computers, such as lap top computers which are frequently connected and disconnected to the network by means of a docking station.

Thus, the APPA being relied upon by the Examiner discloses scheduled discovery, and the combination of the APPA with Barnard in view of Sistanizadeh would result in the system of Barnard performing scheduled discovery. Barnard in view of the APPA fails to teach or suggest the discovery procedure is initiated in response to the initial request from the node establishing a connection to the network, which is claimed and disclosed in the Applicants specification. Furthermore, it should be noted that this claimed feature overcomes the downfalls of the AAPA, because the claimed discovery, which is initiated in response to the initial request from the node establishing a connection to the network, captures devices that are temporarily connected to the network and has less impact on network performance.

For the foregoing reasons, Barnard, Sistanizadeh and AAPA, singularly and in combination, fail to teach or suggest the aforementioned features of claim 32.

PATENT

Atty Docket No.: 200309655-2
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Independent claims 35, 40, 43 and 46 recite features similar to the features of claim 32 described above which are not taught by Barnard, Sistanizadeh or AAPA. Thus, claims 32-33, 35-36, 38, 39, 40-41, 43-44, and 46-47 are believed to be allowable.

Claims 34, 37, 43, and 45 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barnard in view of Sistanizadeh in further view of AAPA, in further view of Official Notice. Claims 34, 37, 43, and 45 are believed to be allowable at least for the reasons their respective independent claims are believed to be allowable.

PATENT

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: May 24, 2010

By /Ashok K. Mannava/
Ashok K. Mannava
Registration No.: 45,301

MANNAVA & KANG, P.C.
11240 Waples Mill Road
Suite 300
Fairfax, VA 22030
(703) 652-3822
(703) 865-5150 (facsimile)